Supreme Court, U. S.
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IN THE

Supreme Court of the United States

October Term, 1973

No. 73-1287

THE REPUBLIC OF CUBA, *et al.*,
Interventor-Petitioners

against

SAKS AND COMPANY,
Defendant-Respondent.

THE REPUBLIC OF CUBA, *et al.*,
Interventor-Petitioners,

against

FABER, COE & GREGG, INC.,
Defendant-Respondent.

THE REPUBLIC OF CUBA, *et al.*,
Interventor-Petitioners

against

ALFRED DUNHILL OF LONDON, INC.,
Defendant-Respondent.

REPLY BRIEF IN SUPPORT OF PETITION FOR CERTIORARI

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March 27, 1974

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Just a brief word is necessary in reply to respondents' argument that a "Bernstein" letter is not necessary in this case because the letter filed in *First National City Bank* v. *Banco Nacional de Cuba*, 406 U.S. 759, sufficiently describes this case. Brief in opposition to petition, p. 6.

We are submitting this reply to advise the Court that when an application was made by Chase Manhattan Bank for a similar letter in a case substantially identical to the *City Bank* case, such a letter was forthcoming (*Banco Nacional de Cuba* v. *Chase Manhattan Bank* (S.D.N.Y.), 60 Civ. 4663. On the other hand, when Irving Trust Company, Chemical Bank and Manufacturers Trust Company made similar application to the State Department in connection with other Cuban litigation involving counterclaims, the State Department declined to issue such a letter (*Banco Nacional de Cuba* v. *Irving Trust Company* (S.D.N.Y. 61 Civ. 1846; *Banco Nacional de Cuba* v. *Chemical Corn Exchange Bank* (S.D.N.Y.), 61 Civ. 485; and *Banco Nacional de Cuba* v. *Manufacturers Hanover Trust Company* (S.D.N.Y.), 61 Civ. 569. It is thus apparent that a letter is not automatic in all cases involving counterclaims in Cuban litigation.

This case does not involve the nationalization of the properties of the importers; it involves merely the repudiation of a commercial obligation. Nationalizations occur very rarely; repudiation of commercial debts are almost a matter of routine occurrence. We do not believe it can be said, with confidence, that Mr. Stevenson had in mind both kinds of cases when he wrote his letter in the *City Bank* litigation.

Respectfully submitted,

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March 27, 1974.